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FISCAL IMPACT STATEMENT

LS 6431

BILL NUMBER: SB 133

NOTE PREPARED: Feb 10, 2009

BILL AMENDED: Feb 9, 2009

SUBJECT: Terrorism.

FIRST AUTHOR: Sen. Wyss

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes it assisting an act of terrorism, a Class C felony, for a person to allow another person to obtain access to or otherwise use real or personal property owned or under the control of the person if the person: (1) knows that the other person is using or will use; or (2) intends that the other person use or will use; the real or personal property to promote, facilitate, prepare to commit, or commit an act of terrorism.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Assisting an Act of Terrorism:* There are no data available to indicate how many offenders may be convicted of assisting an act of terrorism, a Class C felony. A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Racketeering Activity: Also, assisting an act of terrorism is added to the list of crimes that constitute racketeering activity and which may lead to a conviction for corrupt business influence, a Class C felony. Between 2001 and 2005, seven offenders a year on average were committed to a state correctional facility for corrupt business influence.

Seizure: The bill would add to the type of property that may be seized all real or personal property, including a vehicle, that is used by a person to commit, attempt to commit, or conspire to commit an act of terrorism. To the extent that the court would notify the Bureau of Motor Vehicles (BMV) and the BMV produces a clear title for a seized vehicle, costs for the BMV could increase minimally. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: *Assisting an Act of Terrorism:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Seizure: The proceeds from the sale of seized property are distributed first to the county sheriff to cover sale costs; then to any person holding a valid lien or having an interest in the property; and then to the Common School Fund as ordered by the court.

Explanation of Local Expenditures: *Assisting an Act of Terrorism:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Seizure: The prosecuting attorney for the county in which the seizure occurred may cause an action for reimbursement of law enforcement costs and forfeiture to be brought by filing a complaint in the circuit, superior, or county court of the jurisdiction and may retain an attorney to bring the action who is not a deputy prosecuting attorney.

Explanation of Local Revenues: *Assisting an Act of Terrorism:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Seizure: A county sheriff may retain proceeds from the sale of a seized property to offset costs associated with its sale.

State Agencies Affected: DOC; BMV.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

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